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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,767	07/01/2003	George A. Walrath	25323A	5712

22889 7590 01/10/2007
OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER

TARAZANO, DONALD LAWRENCE

ART UNIT	PAPER NUMBER
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1773

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/611,767

Applicant(s)

WALRATH, GEORGE A.

Examiner

D. Lawrence Tarazano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9-22-06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 0 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 9/22/06 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

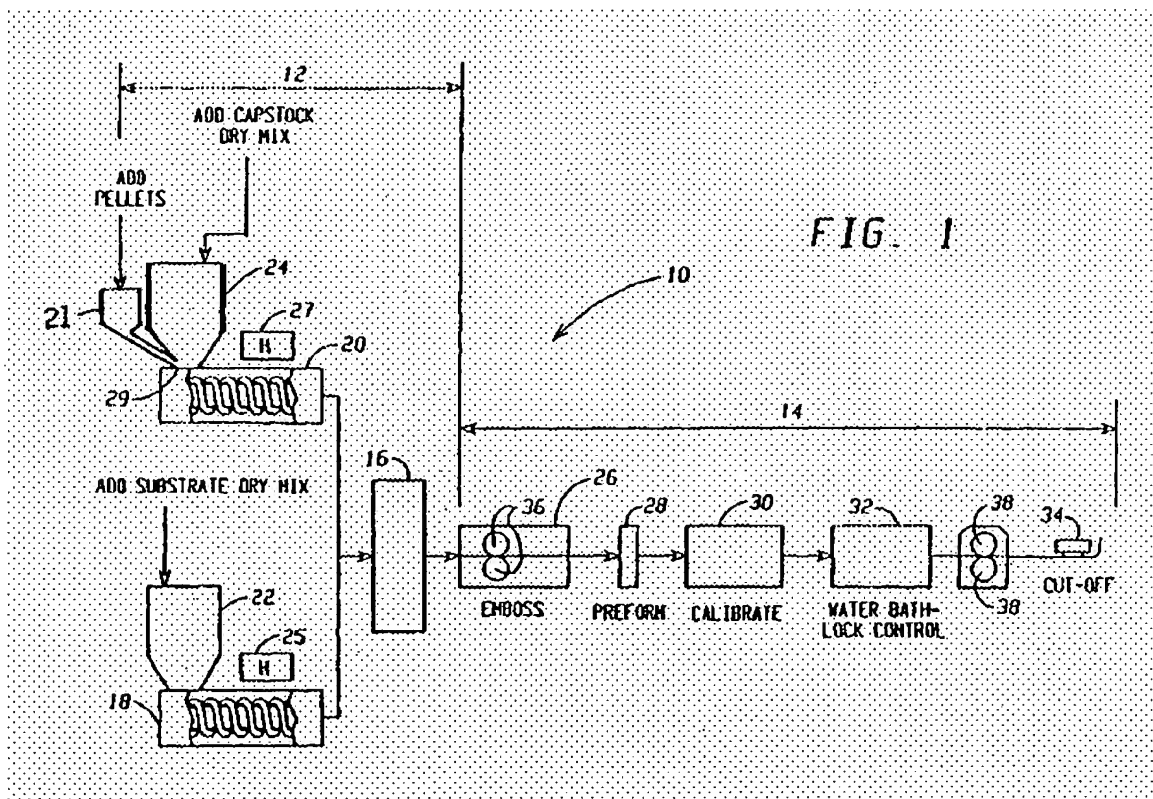
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorchester et al. (5,869,176).

4. Dorchester et al. clearly teach two-layer vinyl siding made by coextrusion. The siding comprises a base layer and a thin colored layer, wherein the colored layer is made of a blend of particles having different softening temperatures. The difference in temperatures allows the accent color particles to retain their integrity to a greater degree from the bulk particles and allows for streaking to occur as the particles go through the extruder (column 7, lines 36-60).

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5. In the system of FIG. 1, the capstock base material is formed by a dry mix of powder-sized particles including resin (e.g., PVC), base color pigment material (if added), and conventional additives (e.g., stabilizers). The mixed capstock is held in the feed hopper 24 and is fed into the throat 29 of the extruder 20. The accent color pellets are added directly to the throat 29 of the extruder 20 from a pellet calibrated feeder 21. The accent color pellets become incorporated with the capstock base material in the extruder 20.



6. The extrusion section 12 includes an extrusion die 16, a pair of screw extruders 18, 20, for feeding material, under predetermined heat and pressure conditions, into the extrusion die 16, and feed chambers 21, 22, and 24, designed to mix and feed material into a respective one of the screw extruders 18, 20. Here, the extruder 18 is designated as the substrate extruder, and the extruder 20 is designated as the capstock extruder.

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7. The combined substrate producing material is held in the feed hopper 22 (along with a conventional color concentrate, if desired), and then introduced into the substrate extruder 18. In the extruder 18, the substrate producing material is heated by heating element(s) 25 to soften and melt the substrate material into a viscous state before it is fed into the extrusion die 16. The special accent color pellets are mixed with the capstock base material in the throat 29 of the capstock extruder 20. A conventional color concentrate can also be added to the capstock in the feed chamber 24, if desired, and introduced with the capstock into the capstock extruder 20. In the capstock extruder 20, the combined capstock base material and accent color pellets are heated by the heating elements 27 to soften the capstock base material into a molten, viscous state before the combined materials are fed into the extrusion die 16. In the capstock extruder, the color accent pellets begin to soften and disperse. The degree of both softening and dispersion controllably depends on the exact formulation used in the alloy of resins and pigments in the pellets. This introduces the accent color streaks or patterns into the viscous molten capstock. The substrate material and the capstock are fed together into the extrusion die 16. In the extrusion die 16, the viscous substrate material and the viscous capstock (including the accent color streaks produced by the pellets) are coextruded to form a sheet of plastic.

8. The differences between the claimed invention and that of the prior art are as follows:

- a. the applicants require a transparent surface layer
- b. the claimed temperatures, and
- c. the particular materials used.

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9. The fact that the applicants claim a transparent surface layer with accent particle streaks is not a patentably distinct structure from that that in the prior art. The prior art clearly teaches that the pigments in the surface layer can be varied, it would have been obvious to one having ordinary skill in the art to have varied the combination of materials used based on what appearance was desired. This would include having a transparent surface layer with accent colors as claimed.

10. The variations in the operating temperature of the apparatus and the corresponding melting/ softening points of the resins would merely relate to the appearance of the final product and the degree of blending of the color particles with the main resin particles. These types of selections would be well within the ordinary skill of the art and would have been obvious based on the appearance desired. The melting points of the resins would directly relate to the degree to which they would blend (closer melting points more blending / greater differences less).

11. The choice of particular resins would be based on their melting properties. Since they are commercial resins, it would have been obvious to one having ordinary skill in the art to have chosen them depending on the appearance of the product desired.

Response to Arguments

12. Applicant's arguments filed 9/22/2006 have been fully considered but they are not persuasive.

13. The applicants argue that the prior does not have a transparent outer layer as claimed. The prior art has a pigmented surface layer. The examiner acknowledges that the surface layer does contain pigments (5,869,176). However, "based on the foregoing disclosure, various pellet

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construction for producing various types of simulated or streaked colored patterns in extruded products will become apparent to those of ordinary skill in the art” (column 11, lines 36+)

14. The concept of putting streaks in the surface layer is clearly taught. The essential difference between the prior art and the claimed invention is the degree of additional pigments added. The amount of pigments added and the general appearance of the vinyl siding product goes to esthetics and varying the amount of pigments present and in what layer they are present is clearly within “the ordinary skill of the art.”

15. The applicants also state that their method is different from the prior art. While there may be some minor differences in how the pattern is applied and the formation of the layers, these differences are not claimed in a way to set the instant claims from the teachings of the prior art.

16. The examiner reviewed the declaration dated 9/22/06; the examiner appreciates Mr. Walrath’s review of both the prior art and the commercial products on the market. While the prior art is not the same as the applicant’s invention, the examiner maintains the position that the basic difference is the degree and location of pigments, and this type of modification merely goes to esthetics and would have been obvious to one having ordinary skill in the art.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Lawrence Tarazano whose telephone number is (571)-272-1515. The examiner can normally be reached on 8:30 to 6:00 (off every other Friday).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571)-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Lawrence Tarazano
Primary Examiner
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